

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 88194-001

v

Blue Cross and Blue Shield of Michigan
Respondent

_____/

**Issued and entered
this 21st day of April 2008
by Ken Ross
Commissioner**

ORDER

**I
PROCEDURAL BACKGROUND**

On February 28, 2008, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on March 6, 2008.

The Commissioner notified Blue Cross Blue Shield of Michigan (BCBSM) of the external review and requested the information used in making its adverse determination. The Office of Financial and Insurance Services received BCBSM's response on March 19, 2008.

The issue in this external review can be decided by a contractual analysis. The contract here is the BCBSM Community Blue Group Benefits Certificate (the certificate). The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II FACTUAL BACKGROUND

From July 10, 2007 through August 22, 2007, the Petitioner received physical therapy services. The services were rendered by XXXXX at XXXXX. The charges for this care totaled \$1,015.00. BCBSM denied payment for this care.

The Petitioner appealed BCBSM's denial of payment. BCBSM held a managerial-level conference on December 27, 2007 and issued a final adverse determination January 11, 2008.

III ISSUE

Is BCBSM required to pay for the Petitioner's physical therapy provided from July 10, 2007 through August 22, 2007?

IV ANALYSIS

Petitioner's Argument

The Petitioner says she was sent for physical therapy to XXXXX. XXXXX staff determined that occupational therapy was a covered benefit. Therefore, instead of sending the Petitioner to a physical therapist, she was treated by an occupational therapist.

The Petitioner believes that BCBSM made an error when it informed XXXXX that occupational therapy was a covered benefit. Therefore, the Petitioner argues that BCBSM is required to pay for her care.

The Petitioner's care was billed under her therapist XXXXX, an individual, and not by XXXXX. However, the Petitioner has been asked to make her payment to XXXXX. Since this facility participates with Blue Cross and is not a doctor's office or XXXXX's office the Petitioner's believes that her care is a covered benefit and BCBSM is required to pay for it.

BCBSM's Argument

BCBSM says it correctly denied coverage for the services the Petitioner received from XXXXX since the care provided was physical therapy and was provided by and billed directly by an occupational therapist.

Section 4 of the certificate, *Coverage for Physician and Other Professional Services*, states on page 4.15:

We pay for physical therapy performed by:

- A doctor of medicine, osteopathy or podiatry
- A dentist for the oral-facial complex
- An optometrist for services for which they are licensed
- A chiropractor doing mechanical traction
- A licensed physical therapist under the direction of a physician
- Other individuals under the direct supervision of a licensed physical therapist, MD or DO or
- A licensed independent physical therapist

Physical therapy is only payable when provided by one of the above listed providers. In the Petitioner's case her care was billed as physical therapy but was rendered and billed directly by XXXXX, a hand and occupational therapist who works at XXXXX. Since the provider is neither a doctor nor a physical therapist, the requirements for physical therapy were not met and therefore denied appropriately.

The Petitioner indicated that since the facility where she received care was participating that her therapy should be a covered benefit. BCBSM did verify that XXXXX was participating, however, since these services were billed directly by the therapist who is not an eligible to provide physical therapy they are not a covered benefit.

Commissioner's Review

The certificate explains that BCBSM pays for physical therapy when provided by certain providers. Since the Petitioner's physical therapy was provided by an occupational therapist that billed directly to BCBSM the care does not meet the requirements of the certificate. No information

was provided that indicated that the care prescribed for and provided to the Petitioner was anything other than physical therapy. There also was no indication that the therapist was directly supervised by a physical therapist, MD or DO.

Had a participating facility billed for the Petitioner's physical therapy BCBSM would have looked into whether her care met requirements for payment when provided by a freestanding physical therapy facility. However, the care was not billed by the facility and therefore her care is not a covered benefit.

**V
ORDER**

BCBSM's final adverse determination of January 11, 2008, is upheld. BCBSM is not required to pay for the Petitioner's physical therapy provided from July 10, 2007 through August 22, 2007.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.